IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 14071 of 2004
WITH
SPECIAL APPLICATION No 14072 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

VENKTESH SALT & CHEMICAL INDUSTRIES

Versus

STATE OF GUARAT

Appearance:
1. Special Civil Application No. 14071 of 2004
MR DILIP B RANA for Petitioner No. 1
MS PANDIT AGP for Respondent Nos. 1 & 2

CORAM : HON'BLE MR.JUSTICE JAYANT PATEL

Date of decision: 04/11/2004

COMMON ORAL JUDGEMENT

As the notice is issued for final disposal, the matters are finally heard today.

2. Rule in both the matters. Ms.Pandit, learned Asst.Govt.Pleader waives service of rule on behalf of respondents State in both the petitions.

3. Upon hearing the learned counsel for the parties and considering the facts and circumstances, it appears that the present cases are covered by the decision of this Court rendered in Special Civil Application No.10477 of 2004 and other allied matters dtd.8/4/2004. The only distinguishing feature in the present cases appear to be that the notices were issued to the petitioners concerned to produce evidence and the evidence was produced but the petitioners concerned has not remained present at the time of hearing. Therefore, the matter can be directed to be reconsidered by the authority.

4. As there is default on the part of the petitioners concerned, in not remaining present on the date when the hearing was fixed, the petitioner cannot be allowed to take undue benefit and the petitioner must be directed to pay the cost to respondent authorities for compensating such default. While this Court passed order dtd.25/10/2004 in this petition of issuing notice, learned counsel for the petitioners had agreed to deposit an amount of Rs.5000/- towards probable cost and the petitioners concerned were directed to deposit the said amount and accordingly the said amount is deposited by both the petitioners separately of Rs.5000/- each with the office of this Court. Mr.Rana, learned counsel for the petitioners state that if the respondents are awarded the costs by way of compensation for default on the part of the concerned petitioners, the petitioners have no objection in bearing the said costs.

5. In view of the above, no further discussions are required and I find that the following directions shall meet with the ends of justice:-

[i] The orders dtd.30/6/2004 (Annexure-A) passed by the Additional Collector which are impugned in these petitions, are quashed and set aside on condition that the petitioners shall pay the cost of Rs.5000/- in each petition to the respondents, with further directions as under;

[a] The petitioners shall produce evidence which may be available with the petitioners to establish existence, nature and extent of rights, if any, over the land comprising of the limit of century. The petitioners shall produce necessary documents

within a period of ONE MONTH from today.

[b] After such documents are produced, the respondent No.2 shall also give opportunity to make submissions either written or oral, to the concerned petitioners and after hearing the concerned petitioners and considering the records and evidence which may be available during the course of the inquiry, the Collector shall pass appropriate order a fresh in accordance with law, as early as possible, preferably within a period of TWO MONTHS after the conclusion of the hearing and shall communicate the order to the petitioners by REGD.POST AD.

Both the petitions are partly allowed. Rule is made absolute accordingly. In the facts and circumstances, as the cost of Rs.5000/- in both the petitions, is ordered and the petitioner has already deposited the same, the office shall pay the said amount to the office of the Government Pleader by ACCOUNT PAYEE CHEQUE ONLY, as the costs of both the petitions separately.

D.S. Permitted.

(JAYANT PATEL,J.)
RAFIK